vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3567 OF 2002
IN
SUIT NO.3659 OF 1995

Banarsibai M. Modi ... Plaintiff

V/s.

Ramavaatar S. Mdoi & Ors. ... Defendants

Mr.T.N. Tripathi for the Plaintiff
Mr.T.J. Jain for the Defendant Nos.4,5,7A & 8
Mr.A.Y. Bookwala for Defendant No.10

CORAM : SMT. NISHITA MHATRE, J.

DATED : AUGUST 8, 2006

P.C.:

. The present Motion has been taken out for permission to withdraw the 15% share from the amount of royalty deposited by defendant No.1 with the Court Receiver. The shares of plaintiff, Defendant No.1 and Defendant No.10 have been stipulated in the order of 22.9.1997. The shares have been quantified as follows: the plaintiff - 15%, Defendant No.1 - 70% and Defendant No.10 - 15% of the royalty paid to the Court Receiver. Apparently, no Motion was filed by Defendant No.10. Therefore, an observation has been made in that order that if Defendant No.10 applies to this Court she would be allowed to withdraw the 15% share of the royalty. Till such an application was made by her, the Receiver was to keep her share in reserve.

2. The plaintiff and the contesting defendants i.e., Defendant 4,5,7A & 8 and 10 contend that the Motion should be heard alongwith the suit. It is also contended that Defendant No.10 is not entitled to any amount. Various other contentions have been raised. However, in my view, these contentions are of no avail to either the plaintiff or to the aforesaid defendants since the order dated 22.9.1997 has been confirmed in Appeal. It is thus, only a question of issuing directions to the Court Receiver to hand over the amount in the percentage which has been quantified by the order of 22.9.1997.

3. Hence, the Motion is allowed in terms of prayer clause (a).

4. Receiver to act on an authenticated copy of this order.